

GOVERNMENT OVERSIGHT COMMITTEE
Child Support Presentation
July 21, 2008

Customers Served

How you become a Customer?

- Receive Public Assistance (FIP, foster care, Medicaid), or received Public Assistance in the past.
- Apply for Services, pay application fee as established by the General Assembly
- Live in other states but need our services because the payor lives or works in Iowa.

What does the Child Support Recovery Unit do?

We help families achieve and maintain financial self-sufficiency by establishing and enforcing child and medical support orders, and processing support payments. We do this by:

- ◆ Locating parents and their employers or other income sources
- ◆ Establishing paternity
- ◆ Establishing support orders
- ◆ Suspending and reinstating support orders
- ◆ Modifying support orders
- ◆ Registering other states' orders for enforcement or modification
- ◆ Sending and receiving referrals for services to and from other states
- ◆ Enforcing support orders through:
 - income withholding
 - offsets of federal and state tax refunds
 - offsets of payments owed to federal and state vendors who do business with government
 - administrative levies of accounts at financial institutions
 - license sanctions
 - reports to credit agencies
 - referrals to the U.S. Attorney for felony prosecution
 - contempt of court actions
 - garnishment actions
- ◆ Answering customers' questions and concerns
- ◆ Receiving and disbursing child support payments

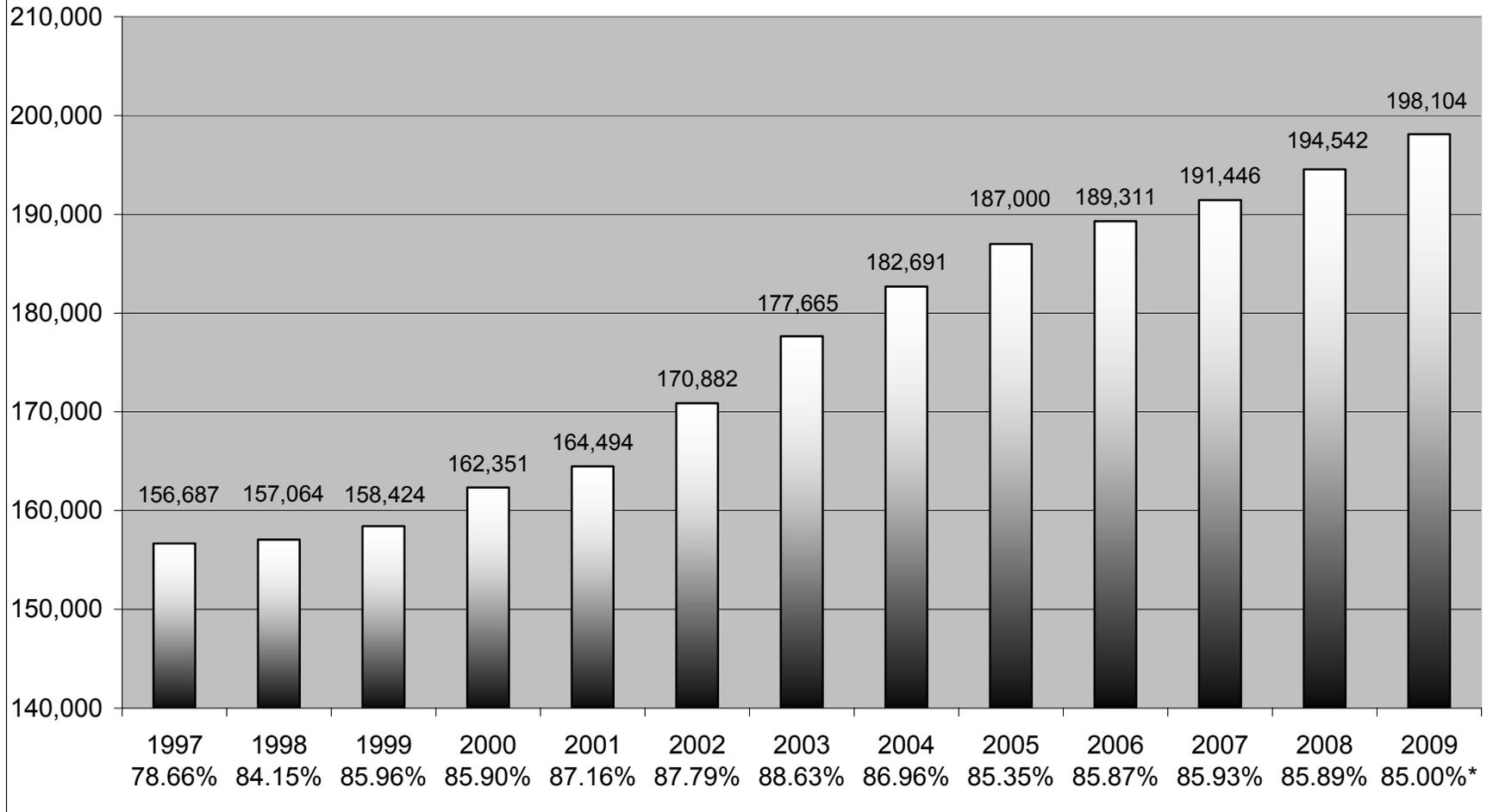
We also have pilot projects and grants to increase and enhance involvement of parents with their children. Projects facilitate access and visitation and other parental activities.

How many cases with court orders does CSRU enforce? There are 194,542 cases, of which 167,092 have a court order.

How much support does CSRU collect? \$345,964,490 in SFY 2008.

CSRU has 37 field attorneys to establish, enforce and modify court orders.

Total Net Child Support Cases



**Projected Caseload*
Source of Data: 157 Report

Number of Cases CSRU is Enforcing for Another State – 8,176
 Number of Cases With a Court Order and Minor Children – 126,038

Child Support Collections

<u>Fiscal Year</u>	<u>Public Assistance</u>	<u>Non-Public Assistance</u>	<u>Total</u>
1992	\$37,384,148	\$62,482,796	\$99,866,944
1993	\$40,430,314	\$76,115,084	\$116,545,398
1994	\$41,615,701	\$84,665,374	\$126,281,075
1995	\$42,926,287	\$97,806,738	\$140,733,025
1996	\$47,403,360	\$112,860,356	\$160,263,716
1997	\$45,379,209	\$128,221,033	\$173,600,242
1998	\$46,418,877	\$147,040,966	\$193,459,843
1999	\$46,174,816	\$163,354,742	\$209,529,558
2000	\$48,471,742	\$180,721,420	\$229,193,162
2001	\$42,617,442	\$202,378,813	\$244,996,255
2002	\$45,427,708	\$223,376,992	\$268,804,700
2003	\$41,771,065	\$242,974,202	\$284,745,267
2004	\$44,775,193	\$257,979,736	\$302,754,929
2005	\$41,978,388	\$265,773,031	\$307,751,419
2006	\$40,622,813	\$277,051,486	\$317,674,299
2007	\$40,418,151	\$286,997,751	\$327,415,902
2008	\$43,037,355	\$302,927,135	\$345,964,490

Notes:

1) Public Assistance collections are those, which are made to repay the Family Investment Program (FIP) and include Temporary Assistance for Needy Families (TANF) collections made on behalf of other states.

2) Non-Public Assistance collections are those which are distributed to families who have requested enforcement services from the Department of Human Services, to families who formerly received benefits, or who have children who are in foster care.

3) Due to enactment of federal and state welfare reform legislation passed in 1996 and 1997 and implemented in July 2000, public assistance collections decreased as more money collected was sent directly to families rather than being retained by the State.

Explanation of the current process for child support orders and modifications

- **All Iowa child support orders are court orders.**
- **Only a court can modify a court order.**
- **CSRU receives federal funding to help establish, modify and enforce child support, but not for custody/visitation.**

➤ **New court order for child support – how the process works:**

A. Judicial process, for example, as part of a divorce decree or order establishing paternity for a nonmarital child. Documents are filed with the court throughout the process, including the first notice and proof the other parent was notified, to the final judge's order for child support. Often there are court hearings. Code chapters: 598 (divorce), 600B (nonmarital child) and 252A (support of dependents).

- Who begins these actions? Usually a parent (*pro se*) or a private attorney representing a parent. CSRU may begin a 252A action.

B. Judicial-administrative process, used only by CSRU to obtain court orders for support. CSRU is the administrative agency that gathers parents' information, follows all the steps and waiting periods, and files documents with the court as provided in the law. CSRU holds conferences at a parent's request, and presents an order to the judge for approval. A court hearing is not held unless a parent requests one. Code chapters: 252C (support order) and 252F (to establish legal paternity for a child and obtain a support order).

- Who begins these actions? If CSRU has a case and there is no child support order yet, federal law requires CSRU to begin the process to obtain a support order.

➤ **Modification of a child support order – how the process works:**

A. Judicial process, for example, to modify a divorce decree or other child support order. Similar to establishing a new order using the judicial process. The Judge considers the facts of each case. Code chapters: 598, 600B, 252A. There must be a substantial change in circumstances.

- Who begins these actions: Usually a parent (*pro se*) or a private attorney representing a parent. CSRU may begin an action.

B. Judicial-administrative process, used only by CSRU to obtain court orders modifying a child support order. Similar to establishing a new order using a judicial-administrative process. However, the waiting periods & steps in the law are not exactly the same for each process. The court may raise or lower the amount of an ongoing child support order. Code chapter: 252H Review and Adjustment (e.g., more than a 20% change in child support; offered once every 2 years), Administrative Modification (e.g., at least a 50% change in one parent's income), and Cost of Living Alteration.

- Who begins these actions? Only CSRU and only in CSRU cases, usually at a parent's request.

Additional Information: Modification or termination of child support order if the child is now living with the parent ordered to pay the child support

Processes used for Iowa orders:	
Judicial process to modify court orders for child support: File application with court, serve notice on other parent, waiting period, other parent’s answer filed and served, opportunity for hearing, judge issues order ending ongoing child support. May include custody change if private action.	For private or CSRU. Parents may or may not agree.
1993: Expedited if CSRU case, parents agree, all children move: Suspension & reinstatement or termination of child support order: To suspend or end support when the parties agree to end support because the parents have reconciled, or all children are living with the parent who had been ordered to pay support. Both parents sign affidavits to end support and the CSRU attorney presents the order to the judge to sign. No financial statements or recalculation of child support amount. No waiting periods for order.	Only in CSRU cases. Only if both parents consent. Once every 2 years.
2005: Expansion of suspension & reinstatement or termination if CSRU case, parents agree, if some children move: Same as above, but even if not all the children move together, as long as the order already lists the amount of support for fewer children. No waiting periods for order.	Only in CSRU cases. Only if both parents consent. Only once every 2 years.
2005: Expedited if Juvenile Court changes custody: If Juvenile Court changes custody to the parent who was ordered to pay child support, Juvenile Court Judge notifies District Court when appropriate for District Court to terminate its order. Each judicial district has fill-in forms the courts use for this.	Private. Parents may or may not agree.
2006: Expansion of statutory basis if Juvenile Court changes custody: If Juvenile Court in a dispositional or permanency order changes custody to the parent who was ordered to pay support, Juvenile Court judge notifies District Court when appropriate for District Court to terminate order. Statute waives filing fees and court costs. This expanded on a 2004 legislative change.	Private. Parents may or may not agree.
2007: Faster change even if no Juvenile Court involvement or even if parents do not agree: New statute allows temporary modification of support order while Court is deciding on Application for modification of custody or child support. A 5-day waiting period.	Private. Parents may or may not agree.
2008: Supreme Court approved self-help (pro se) forms for parents to modify Iowa child support orders using the judicial process.	Private. At present only if no custody order. Parents may or may not agree.

**ADDITIONAL INFORMATION: DEPARTMENT OF
CORRECTIONS/CHILD SUPPORT RECOVERY UNIT PROTOCOL
FOR PAYMENTS TO INCARCERATED CUSTODIAL PARENTS
JUNE 2004**

DOC/CSRU Protocol for Payments to Incarcerated Custodial Parents June 2004

This protocol was established through a series of discussions with representatives from the Department of Corrections, Child Support Recovery, and the Ombudsman's Office. It provides direction for resolving the issue of child support payments being distributed to incarcerated parents, and is intended to be applied on a case-by-case basis.

1. Department of Corrections (DOC) receives a child support check, and sends an e-mail to the designated Child Support Recovery (CSRU) contact person.
2. CSRU reviews the case to determine whether the check contains current support, arrears, or both, and advises DOC of the findings.
3. The DOC facility processes the payment according to their internal protocol.
4. When a check for current support is received, DOC asks the offender to provide the name and address of the person now caring for the child (Caretaker), and provides that information to CSRU.
5. CSRU reviews their records to see if the Caretaker has applied for public assistance benefits. If so, the current support payments will automatically be redirected to the Caretaker. CSRU also checks to see if the Caretaker has applied for child support services as a non-public assistance applicant. This, too, will enable CSRU to redirect the current support payments to the Caretaker.
6. If the Caretaker is the child(ren)'s other parent, CSRU proceeds with a standard action to suspend and terminate that parent's obligation to pay child support to the incarcerated parent. This process requires the signature of both parents.
7. In rare instances, CSRU is unable to make an automatic redirection of payments because the Caretaker has not applied for public assistance nor for the non-public assistance services of CSRU. When this situation occurs, CSRU contacts the Caretaker and provides information about the services available through the child support agency.
8. Additionally, DOC has forms on hand for the incarcerated custodial parents to voluntarily redirect the current child support to the Caretaker.
9. The Department of Corrections has contract attorneys to provide scheduled, on-site legal advice to inmates, including the process of redirecting child support payments to a Caretaker.

Child Support Checks Issued to Incarcerated Parents

Analysis of Payments
Between September, 2007 and February , 2008

172 child support checks received by Dept. of Corrections facilities

119 checks were payments toward arrears, or 69%

53 checks were payments of current support, or 31%

8 offenders were issued current support payments, as the 53 checks consist of monthly or bi-weekly recurring payments to 9 cases. One offender has two cases.

2 offenders are being issued current support payments as of this date. One is now being issued only arrears payments, and the other 5 have all been released.

The federal law governing the distribution of child support payments require the following:

1. Payments toward current support must be distributed within 2 business days of receipt.
2. Payments must first be applied toward the current month's support obligation, and any remainder can then be applied toward arrears.

Payments toward arrears must be distributed to the parent or the caretaker as directed by the court order.

State law and rules do not allow administrative modification of a court order, and state and federal law do not allow retroactive modification of a child support order.

Other Issues encountered when trying to resolve the more problematic cases

- Support disputes that involve an underlying custody issue can be complicated and protracted for many reasons.
- If a recipient parent cannot be found, constitutional due process requires notice be provided to that parent, and that will take more time.
- If a recipient parent resists modification despite an obvious change in a child's living arrangements, the issue of custody must proceed to a court hearing to satisfy due process requirements and the statutory requirement of proving a "substantial change in circumstances."
- The "substantial change in circumstances" often prevents a "summary disposition" (a decision by the Court based on the paper information) when parties dispute the facts, but it is a standard that is designed to provide children with stability.
- Sometimes a parent goes to great lengths (e.g., stretching the truth) to avoid or delay giving up a child support payment, and when this happens the courts must hold a hearing to determine the facts.
- When cases involve such disputes and legal complications, the assistance of an attorney is highly beneficial, but many people cannot afford to retain an attorney and the state does not presently provide legal representation for either parent.
- CSRU receives federal funding to help establish, modify and enforce child support, but not for custody/visitation.